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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,494	03/01/2004	Joseph W. Bertrand	134/146	1869

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Averill & Varn
8244 Painter Ave.
Whittier, CA 90602

EXAMINER

WINNER, TONY H

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/791,494

Applicant(s)

BERTRAND, JOSEPH W.

Examiner

Tony H. Winner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 1, 5, 7, 11 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Election

1. Applicants elect species I with traverse is acknowledged. No arguments are provided for the ground of traversal therefore, the office maintains that the restriction is still deemed proper and is therefore made FINAL. Claims 1-11 and 13-20 were said to be readable on the elected species, corresponding to figures 3A-4. Accordingly, claim 12 is withdrawn from consideration. An action on the merits follows.

Specification

2. **The following is a quotation of the first paragraph of 35 U.S.C. 112:**

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71 (a)-(c):

- a. The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.
- b. The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.
- c. In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

The specification is objected to under 37 CFR 1.71 because it fails to provide an adequate and properly organized written description of the invention.

Claim 20 states that "the downward air flow is controlled by the DAG, a port tunnel edge and a starboard tunnel edge" is lacking the proper support in the specification. While the specification (page 8 lines 8-12) briefly mentions the tunnel edges, however, the specification failed to disclose how the tunnel edges control the downward airflow.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling.

Claim 20 states that "the downward air flow is controlled by the DAG, a port tunnel edge and a starboard tunnel edge" is lacking the proper support in the specification. While the specification (page 8 lines 8-12) briefly mentions the tunnel edges, however, the specification failed to disclose how the tunnel edges control the downward airflow as recited in claim 20.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Burnett et al. (US. 6,648,270 B1).

Burnett discloses a surface effects skimmer (figure 1) comprising;

- a. a main hull suitable for carrying at least one human occupant and having:
- b. a bow of the main hull;
- c. a stern of the main hull',
- d. a port side of the main hull;
- f. a starboard side of the main hull;
- g. a centerline running between the bow and the stern; and
- h. a hull bottom (figure 2) defining a tunnel open to the stern;
- i. at least one rearward thrust (50), and
- j. a downward air flow (figure 4);

wherein the downward air flow is directed into the tunnel to reduce drag between the hull bottom and an adjacent surface.

With regard to claims 6 and 7, Burnett discloses all of the claimed limitations.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burnett.

Burnett discloses the claimed invention but lacks the use of automotive engine for powering the surface effects skimmer. However, **the examiner takes Official Notice** that the use of automotive engine to power a vehicle is old and well known in the land/surface effect vehicle therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the engine of Burnett with an automobile engine, since the examiner takes Official Notice that by using a generic automotive engine would be cost effective in making the surface effect vehicle.

Allowable Subject Matter

6. Claims 2-6, 8-10, 13, 14, 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claim 19 is allowed.

Conclusion

8. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Anthony H. Winner whose telephone number is (571) 272-6654. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the

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examiner's supervisor, Lesley Morris, can be reached at (571) 272-6651. Currently, the fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. However, on July 15, 2005, the Central FAX will be changed to (571) 273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information-Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6584.



TONY WINNER
PATENT EXAMINER

August 21, 2005